



Paper No. 13

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OFFICE OF PETITIONS

ON PETITION

In re Application of  
Roberds, et al.  
Application No. 09/802,668  
Filed: 9 March, 2001  
Attorney Docket No.: PHRM-0319

This is a decision on the petition filed on 1 April, 2002, styled "Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O. Response to 'Notice of Omitted Items' Nonprovisional Application" and considered under 37 C.F.R. §1.53 requesting that page 21 of the specification of the above-identified non-provisional application be accorded a filing date of 9 March, 2001.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

The application was originally deposited (via Express Mail Label No EL568028323US) on 9 March, 2001.

The application as filed consisted, *inter alia*, of "pages 1 to 138" consecutively numbered pages written description (specification, claims and abstract).

The application coversheet also authorized the basic filing fee, which was charged.

The Office mailed, *inter alia*, on 21 March, 2002, a "Notice of Omitted Item(s) in a Nonprovisional Application" in which Petitioner was informed that page 21 of the specification (description and claims) appeared to have been omitted from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed on 1 April, 2002, a response with the instant petition, a copy of the Office-stamped filing receipt card, a copy a document purporting to be page 21 of the specification (description and claims), authorization to charge Deposit Account 23-3050 in the amount of \$130.00 in payment of the petition fee.

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The copy of the date stamped (9 March, 2001) receipt card (with Office bar code and application number) filed with the instant petition indicates that the application was filed with, *inter alia*, pages 1-138 of specification, including claims and abstract.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that pages 1-138 of specification (description and claims), including page 21, were filed on 3 April, 2001, and that the page 21 was subsequently misplaced in the Office.

Accordingly, the petition is **granted**.<sup>1</sup>

The Notice mailed on 21 March, 2002, hereby is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 9 March, 2001, using pages 1-20 and 22-138 of the specification (claims and abstract) filed on 9 March, 2001, and the page 21 supplied on 1 April, 2002, with an indication on the PALM bib data sheet that pages 1 - 138 of the specification (description, claims and abstract) were present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.



John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
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<sup>1</sup> Pursuant to Petitioner's authorization, the petition fee (\$130.00) is being refunded to Deposit Account 23-3050.